



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JAN 10 2011

MCPB No. 10-150
Forest Conservation Plan No. MR2010720
Downcounty Consortium School #29 (McKenney Hills)
Date of Hearing: October 28, 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review forest conservation plan applications; and

WHEREAS, on August 26, 2010, Montgomery County Public Schools ("Applicant"), filed an application for approval of a preliminary forest conservation plan on approximately 12.6 acres of land located at the terminus of Hayden Drive ("Property" or "Subject Property"), in the Kensington-Wheaton master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary forest conservation plan application was designated Forest Conservation Plan No. MR2010720, Downcounty Consortium School #29 (McKenney Hills) ("Forest Conservation Plan" or "Application"); and

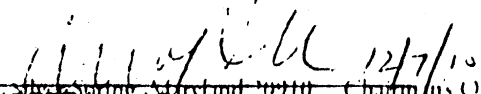
WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 15, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, the Planning Board held a public hearing on the Application (the "Hearing") on October 28, 2010; and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 28, 2010, the Planning Board approved the Forest Conservation Plan subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Alfandre; with a vote of 5-0, Commissioners Carrier, Wells-Harley, Presley, Alfandre, and Dreyfuss voting in favor.

Approved as to
Legal Sufficiency:

 12/7/10
www.MC.ParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board approved Forest Conservation Plan No. MR2010720 on the Property, subject to the following conditions, which Applicant shall satisfy prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits and any land disturbing activities, including clearing or grading onsite:

1. Approval of a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan.
2. The development shall comply with the conditions of the approved Final Forest Conservation Plan.
3. The electronic file containing the signed Final Forest Conservation plan must be submitted to the Environmental Planning Division for approval. Submission of a final forest conservation plan must be in accordance with section 1.09(B) of the forest conservation regulations, and consistent with the approved preliminary Forest Conservation Plan. Electronic files must have Environmental Planning approval signature, be in PDF format, and be in only one file.
4. Final forest conservation plan must include:
 - a) Detailed and specific tree protection measure for impacted trees prepared by an ISA-certified arborist.
 - b) A detailed planting plan to replant areas of clearing, where possible, and minimize further tree loss due to the creation of new forest edges.
 - c) Provide an edge determination with all trees with a 6" DBH or greater located within 25' of the LOD.
 - d) Field locate all disturbance into the forest to minimize tree loss. This includes areas of erosion repair and path removal or development.
 - e) Revise the stream valley buffer to accurately reflect the approved NRI/FSD.
5. Applicant must record a Category I conservation easement, prior to any clearing or grading occurring onsite, over all areas of forest retention.
6. A certified arborist must be present at the pre-construction meeting, during construction, and after construction to oversee specific tree protection measures as identified on the Final Forest Conservation Plan.
7. Required site inspections by M-NCPPC monitoring staff (as specified in "Trees Technical Manual").

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. Applicant has met all criteria required to grant a variance to Section

1607(c) of the Natural Resources Article, MD Ann. Code in accordance with Section 22A-21 of the Montgomery County Code.

Section 1607(c) of the Natural Resources Article, MD Ann. Code identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance. The following trees require a variance for disturbance within their critical root zone:

Tree #	Species	D.B.H (Inches)	Tree Condition	Ownership	Comments	Removed	% Impact
2	WHITE PINE	32	FAIR	SCHOOL		REMOVED*	49% IMPACT
4	BLACK CHERRY	46	FAIR	SCHOOL		REMOVED*	84% IMPACT
5	YELLOW POPLAR	32	GOOD	SCHOOL		REMOVED*	84% IMPACT
7	YELLOW POPLAR	34	GOOD	SCHOOL		REMOVED*	42% IMPACT
11	YELLOW POPLAR	33	GOOD	SCHOOL			17% IMPACT
29	RED OAK	33	GOOD	SCHOOL		REMOVED	
30A	YELLOW POPLAR	30	POOR	SCHOOL	HEARTROT, CRACK	REMOVED*	27% IMPACT
31	YELLOW POPLAR	30	GOOD	SCHOOL		REMOVED*	30% IMPACT
32	RED OAK	34	GOOD	SCHOOL		REMOVED*	26% IMPACT
36	RED OAK	38	GOOD	SCHOOL			2% IMPACT
44	YELLOW POPLAR	33	GOOD	SCHOOL		REMOVED*	41% IMPACT
45	YELLOW POPLAR	30	GOOD	SCHOOL		REMOVED*	41% IMPACT
46	YELLOW POPLAR	33	GOOD	SCHOOL		REMOVED*	20% IMPACT
53	YELLOW POPLAR	39	GOOD	SCHOOL		REMOVED*	3% IMPACT
58	RED OAK	58	GOOD	PARK PROPERTY			18% IMPACT
59	YELLOW POPLAR	42	GOOD	SCHOOL		REMOVED	
67	PIN OAK	36	GOOD	SCHOOL			14% IMPACT
68	WHITE OAK	34	GOOD	SCHOOL		REMOVED	
69	YELLOW POPLAR	38	GOOD	SCHOOL		REMOVED*	27% IMPACT
70	RED OAK	40	GOOD	SCHOOL		REMOVED*	20% IMPACT
77	YELLOW POPLAR	34	GOOD	CO-OWNED		REMOVED	
78	BLACK LOCUST	37	POOR	CO-OWNED	BROKEN SCAFFOLDS, CAVITY.	REMOVED	
79	BLACK LOCUST	31	FAIR	CO-OWNED	BROKEN SCAFFOLDS, LEANING	REMOVED	
102	BLACK LOCUST	33	GOOD	PARK PROPERTY	STEM REMOVED		3% IMPACT
103	YELLOW POPLAR	30	GOOD	PARK PROPERTY			7% IMPACT
106	YELLOW POPLAR	30	GOOD	PARK PROPERTY			2% IMPACT
113	WHITE OAK	34	GOOD	SCHOOL			16% IMPACT
116	YELLOW POPLAR	46	GOOD	SCHOOL			3% IMPACT
301	YELLOW POPLAR	37		SCHOOL		REMOVED	
302	YELLOW POPLAR	32		SCHOOL		REMOVED*	30% IMPACT
308	YELLOW POPLAR	42		SCHOOL		REMOVED	
310	WHITE OAK	41		SCHOOL		REMOVED*	25% IMPACT
315	YELLOW POPLAR	34		SCHOOL		REMOVED*	29% IMPACT
322	RED OAK	48		SCHOOL			7% IMPACT
323	YELLOW POPLAR	36		SCHOOL		REMOVED*	49% IMPACT
401	RED OAK	41		PARK PROPERTY			6% IMPACT
402	RED OAK	39	FAIR/POOR	PARK PROPERTY		REMOVED*	35% IMPACT
403	WHITE OAK	38	DEAD	PARK PROPERTY		REMOVED*	DEAD
404	RED OAK	31		PARK PROPERTY		REMOVED*	14% IMPACT
405	WHITE OAK	30		PARK PROPERTY			20% IMPACT
408	RED OAK	36		PARK PROPERTY			6% IMPACT
407	LINDEN	34		PARK PROPERTY		REMOVED*	26% IMPACT

In accordance with Section 22A-21(e), the Applicant has met all of the following criteria required for the Board to grant the variance.

- a. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

The Applicant has minimized impacts to trees by restricting limits of disturbance. The use of this site for a public elementary school is an established use and is not a special privilege conferred on the applicant.

b Is not based on conditions or circumstances which are the result of the actions by the applicant.

The inherent site characteristics of stream valley buffer and steep slopes with highly erodible soils severely limit the development footprint of the school. The Applicant has minimized disturbance by taking the following steps:

- a) Using a compact building form that works with the natural landform. The proposed school is a three-storey building that takes advantage of the natural grade in the design of outdoor spaces associated with the building and the needed ingress/egress points.
- b) Reducing the parking constructed to support the school by working with the adjacent Glenwood Recreation Club to share an existing parking lot on the recreation club's property.
- c) Minimizing outdoor recreation facilities associated with the school. An optimal elementary school facility incorporates two softball fields (with a 200' radius) and one soccer field (sized 150' x 240') superimposed over them. This school proposes only one multipurpose field (sized 85' x 160'), with a single backstop (with a 80' radius).
- d) Using facilities provided to meet multiple functions. For example, the basketball courts also serve as required turnarounds for fire and rescue equipment.

The Applicant will further reduced tree loss by:

- a) Field locating the stormwater management outfall. The exact placement of the necessary outfall and conveyance was determined in the field to minimize tree loss and the design takes advantage of the natural landform by using an existing gully.
- b) Using an arborist to provide detailed and specific tree protection measures to retain trees impacted by development.
- c) Developing a detailed planting plan to replant areas of clearing, where possible, and minimize further tree loss due to the creation of new forest edges.

c Does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

The requested variance is a result of the proposed site design and layout on the subject property and not a result of land or building use on a neighboring property.

d. *Will not violate Site water quality standards or cause measurable degradation in water quality.*

While some trees are proposed to be removed within the stream valley buffer, the site currently has no stormwater management controls on it. On balance, development of this site should be a positive contribution to water quality, even with the loss of trees.

2. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and Forest Conservation Regulations Section 1.09(B) (COMCOR 22a.00.01.09B).*

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is JAN 10 2011 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners

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Alfandre, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, December 16, 2010, in Silver Spring, Maryland.


Marye Wells-Harley, Vice Chair
Montgomery County Planning Board